THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 28972 OF 1997

Date: 08.02.2007

Between:

Ch. Harnatha Sudhakar Rao.

... Petitioner

and

A.P. State Road Transport Corpn., rep., by its Vice Chaiman and Managing Director, M.D's office, Musheerabad, Hyderabad and two others.

... Respondents.

_

_

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 28972 OF 1997

ORDER:

Though the petitioner has questioned the validity of the circular of the respondent corporation dated 16.05.1997, I am satisfied that the writ petition must be allowed on other grounds and that it is wholly unnecessary to examine the constitutional validity of the impugned circular.

The petitioner joined as a Conductor in the A.P.S.R.T.C. on daily wages in 1986. His services were regularized as a Conductor on 01.08.1987. The second respondent issued notification dated 26.05.1997, inviting applications from eligible candidates for appointment to the post of Junior Assistant both by promotion and by direct recruitment. The petitioner applied for the post both under the promotion quota and by way of direct recruitment. Since he was not senior, his case was not considered for promotion and his claim in this writ petition is restricted to the recruitment made to the post of Junior Assistant by direct recruitment to which even internal candidates were entitled to participate. The qualifications prescribed for appointment as a Junior Assistant is that the applicant must be a graduate from a recognized University and must have passed typewriting in lower grade either in English or in Telugu. Relaxation of age and the other conditions prescribed need not be examined, since the dispute relates only to the qualifications of graduation as prescribed in the notification. After completion of

the written test held on 28.09.1997, and in the results published on 07.10.1997, the petitioner was shown to have passed and his name was listed at serial No. 123 in the list of selected candidates. The second respondent, vide proceedings dated 14.10.1997, directed the candidates, who had passed in the written examination, to appear in the interview on 25.10.1997 wherein the petitioner was also shown at serial No. 56. The petitioner was informed by the Depot Manager Kanigiri in his letter dated 22.10.1997 to appear for the interview. No interview was held on that date and in the interview held subsequently the petitioner was not called upon to participate.

The circular dated 16.05.1997 relates to prescription of marks for basic qualification i.e., graduation. The 50 marks prescribed is required to be apportioned on the basis of candidates' performance in the basic degree. The subject matter of dispute in this writ petition relates to the prescription that candidates who pass the examination on compartmental basis are required to be given lower preference and considered after all the candidates who had passed the examination on a regular basis.

Sri R. Manmadha Reddy, learned Standing Counsel, would place reliance on a Division Bench judgment of this Court in W.P. No. 11204 of 1997 dated 16.10.1997 in support of his submission that this Court would not, ordinarily, go into the question relating to prescription of age, qualification, staff pattern or the source from which the recruitment is to be made for appointment in the respondent corporation, since these are all matters of policy. There can be no quarrel with this proposition. It is for this reason

that the validity of the circular dated 16.05.1997 has not been examined. The only question which this Court has examined is whether the circular would disentitle the petitioner from being considered for appointment as a Junior Assistant under the direct recruitment quota restricted only to internal candidates of the respondent corporation.

The question which, therefore, arises for consideration is whether the petitioner can be said to have passed the examination on a regular basis or on a compartmental basis. It is the specific case of the petitioner that he joined the three year B.Sc degree in the year 1983 and appeared for the languages examination in the year 1985 and had passed the same and, while he completed the course in 1986, he did not appear for the final year degree examination as he was suffering from Jaundice. Thereafter he secured employment in the A.P.S.R.T.C. and subsequently during April, 1991 he appeared in all the three subjects in five papers and passed the same in one attempt. Aggrieved by the action of the respondents in treating him as a compartmental candidate and in not considering his case for promotion, the petitioner has approached this Court.

The words “compartmental examination” is not defined in the circular and, therefore, the meaning to be given thereto is as understood in common parlance. A candidate who appears in the regular examination and fails in one or two subjects is permitted to appear for those papers alone in the subsequent examination which is termed “compartmental examination” i.e., the candidate, despite not having cleared all the papers in one single attempt, is

still entitled to be conferred a bachelor's degree if he passes in all the subjects, *albeit* at different points of time. The specific case of the petitioner is that he never appeared earlier in the final year examination and it was for the first time in April, 1991 that he appeared in all the three subjects in five papers and had passed the same in one attempt. Since the petitioner never appeared in the final year examination earlier and had passed all the papers in the final year examination, in one attempt in his first appearance, it cannot be said that he had passed the final year degree examination on a compartmental basis. The petitioner must necessarily be held to have passed the examination on a regular basis.

This would not, however, entitle the petitioner to claim promotion automatically to the post of Junior Assistant, as he was not earlier subjected to interview. While Sri P. Sridhar Reddy, learned Counsel for the petitioner, would contend that the interview is a mere formality, it cannot be lost sight of that the notification itself prescribes an interview to be conducted before a candidate is selected. Sri R. Manmadha Reddy, learned Standing Counsel for the Corporation, would submit that the question whether the petitioner had passed his final year degree examination in the first attempt and in one go has to be ascertained by the Corporation. It would meet the ends of justice if the respondents herein were directed to cause an enquiry in this regard and, if the petitioner's contention that he had appeared for the final year degree examination for the first time in April, 1991 and had passed in all the papers in the final year examination in one attempt is found to

be genuine, to call him for interview and, if found eligible, consider his case for appointment as a Junior Assistant.

The entire exercise in this regard shall be completed within a period of three months from the date of receipt of a copy of this order. Needless to state that in case the petitioner is found eligible to be appointed as a Junior Assistant, he shall be given the benefit of seniority on par with all those candidates who were selected pursuant to the notification dated 26.05.1997. The writ petition is disposed of accordingly. No costs.

_____

Date: 08.03.2007 RAMESH RANGANATHAN, J

MRKR